

STAFF REPORT

Meeting Date: October 15, 2003

TO: LAFCO Commissioners

FROM: Everett Millais, Executive Officer

SUBJECT: Municipal Service Reviews – Ojai – San Buenaventura Water and Wastewater Agencies

RECOMMENDATION:

- A. Accept the Ojai – San Buenaventura Municipal Service Review Report for the 11 agencies that provide water and/or wastewater services in the Ventura River watershed area of Ventura County.
- B. Adopt separate resolutions for each of the following 11 agencies making findings that the action is exempt under the “general rule” exemption of the California Environmental Quality Act (CEQA) Guidelines (§15061(b)(3)) and approving water and/or wastewater service reviews and statements of determinations as required by Government Code §56430:

City of San Buenaventura
Casitas Municipal Water District
Meiners Oaks County Water District
Montalvo Municipal Improvement District
Ojai Basin Groundwater Management Agency
Ojai Valley Sanitary District
Ojai Water Conservation District
Saticoy Sanitary District
Ventura County Service Area No. 29
Ventura County Service Area No. 32
Ventura River County Water District

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EXECUTIVE OFFICER: Everett Millais	SENIOR PLANNER: Hollie Brunsky	CLERK: Debbie Schubert	LEGAL COUNSEL: Noel Klebaum

DISCUSSION:

Background:

The Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (California Government Code §56000 et seq.) mandates that each LAFCO conduct municipal service reviews prior to or in conjunction with Sphere of Influence (SOI) studies and updates. LAFCOs are also required to review and update the SOI for all agencies not less than once every five years.

In May 2002, after holding several public study sessions on how to best implement the municipal service review and sphere of influence update mandates, the Commission approved an overall work plan. The work plan divided the tasks into three phases. Because non-agricultural water and wastewater services were determined to be the core municipal services necessary for growth, the first phase of the process was established as a Countywide review of the public water and wastewater service providers.

After budgeting for professional consulting services to prepare the water and wastewater service reviews as a part of the 2003-2003 fiscal year budget, and after a public Request for Proposals process, the Commission entered into a professional services agreement with Project Design Consultants (PDC) in December 2002 to conduct the water and wastewater service reviews. The project manager for PDC is Joyce Crosthwaite. Ms Crosthwaite will be at the October 15 meeting to present the Final Draft of the Ojai – San Buenaventura Municipal Service Review Report.

The Report & Actions by the Commission

The Final Draft of the Ojai – San Buenaventura Municipal Service Review Report for 11 water and wastewater agencies was previously distributed to the Commission. The Report contains an Executive Summary, a summary review of each of the 11 agencies involved, and descriptive information about each of the nine factors that require written statements of determination, noting areas for special study. The Report also sets forth proposed written determinations for each of the nine mandatory factors for each agency. These proposed determinations are repeated in each of the attached resolutions recommended for action.

Appendix A to the Report contains copies of the survey responses received from each of the 11 agencies in the Ojai – San Buenaventura service area. Most of the 11 agencies were responsive and several provided helpful comments about the process and ways to improve the survey questions in the future. The survey responses and meetings with the individual agencies are the basis for the Report and for the recommended determinations.

The survey questions and responses have all been entered into a large database of information. This database is a unique feature of the approach being taken for service reviews by the Ventura LAFCO. The database will enable information to be easily updated, for reports to be generated as necessary based on selected information, and provides a base-line of public information that can be used for future service reviews.

The water and wastewater service reviews of the 10 water and wastewater agencies grouped under the general heading of the Santa Clara Watershed are scheduled to be considered by the Commission at a special meeting on Friday, December 12, 2003. Once the Commission has acted on all of the service reviews for the public water and wastewater agencies in Ventura County, all the Reports will be finalized.

It is important to note that the actions recommended at this time relate only to water and wastewater service reviews. Sphere of Influence updates are not part of any of the recommended actions. It is expected that once the service reviews are completed for all of the water and wastewater agencies, Sphere of Influence Update actions will be recommended early next year for all agencies that don't require significant extra special study or CEQA review.

CEQA:

The Ventura LAFCO is the lead agency under CEQA for the service reviews now being recommended. The Commission must therefore address CEQA requirements before taking any action. In staff's opinion it could easily be argued that the water and wastewater service review actions being recommended are not a project under CEQA in that the actions will not result in a direct or reasonably foreseeable indirect physical change in the environment. Such a determination, however, would not result in any further public CEQA notice of action and potentially could be challengeable over an extended period of time. Thus, a more conservative approach of having the Commission determine that each of the 11 recommended actions are exempt from CEQA is recommended. This will result in the filing of a Notice of Exemption with the County Clerk for each action and, significantly, a 30-day period for anyone to challenge the CEQA determinations. If no challenge to the CEQA determination is filed by the end of the 30-day period, the actions are not subject to subsequent CEQA challenge in the future.

Staff, in conjunction with legal counsel, reviewed both the CEQA Guidelines and the CEQA discussion in the newly issued State Guidelines for Municipal Service Reviews. Based on this review it is recommended that the Commission find that each of the 11 separate actions recommended are exempt from CEQA under what is referred to as the "general rule" exemption. Specifically, CEQA Guidelines §15061(b)(3) provides that a project (each individual service review) is exempt from CEQA if:

"The activity is covered by the general rule that CEQA applies only to projects, which have the potential for causing a significant effect on the

environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA.”

Each of the recommended resolutions contains a finding that the action is exempt from CEQA based on this “general rule” exemption.

Public Hearing Notice:

Unlike Sphere of Influence changes, there are no special notice or public hearing requirements for actions on municipal service reviews. Notwithstanding this fact, the entire service review process is intended to be public and both the draft and newly issued final State Municipal Service Review Guidelines recommend taking action on service reviews at a noticed public hearing. Thus, the Ojai – San Buenaventura Municipal Service Review Report for water and wastewater services and the related recommended actions have been noticed and scheduled as a public hearing. Both legal and display ad notices were published in the Ventura County Star on Sunday, September 21, and notice and the Final Draft Report were posted on the Ventura LAFCO web site. Notice of the hearing was also posted at the County Government Center. Copies of the Final Draft Report have been distributed to all the affected agencies and to other interested agencies and individuals.